IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 20086 of 1997

Between:

St. Andrews School rep. by Clarine Emanuel, W/o Emanuel
R/o West Marredpally, Secunderabad

..... PETITIONER

AND

Assistant Secretary
Regional Transport Authority, Secunderabad Zone

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari and call for the entire records in Memo No.23680/A1/SD/95, dt: 12-11-1996 from the file of the Assistant Secretary, Regional Transport Authority, Secunderabad Zone and quash the demand there under demanding payment of Rs.55,708-00 purporting to be the contract carriage Tax for the quarter Ending 31-12-1995 on the petitioner's school bus bearing registration No.ADT 9317 as arbitrary malafide, illegal and without jurisdiction and issue any other appropriate writ order or direction and grant such other necessary relief.

Counsel for the Petitioner:MR.K.N.JWALA

Counsel for the Respondents : GP FOR TRANSPORT

The Court Made the Following :

O R D E R (Per the Hon'ble Sri Justice Bilal Nazki):

Heard learned counsel for the parties. The facts leading to filing of this writ petition are summarized herein below.

Petitioner is a School and has been plying buses for its own use and the buses, which are used by the School have special permits by which they pay lesser tax than the usual buses. On an inspection, the Motor Vehicle Inspector found a School bus belonging to the petitioner School being run and carrying the students and teachers of another school. *Prima facie*, he was of the view that the School was hiring the buses to another School, which was against the conditions of permit. Therefore, a show cause notice was issued as to why the School bus be not charged as a contract carrier. In the reply to the show cause notice, the School stated that another School's bus had broken down and the Principal had phoned and the bus was given on that day alone to bring the children of another School, who were stranded. The competent authority did not agree with the contention of the petitioner and levied tax as a contract carrier. Hence, the writ petition.

Larger Bench of this Court has considered many issues relating to taxation under Motor Vehicles Taxation Act, 1963 (for short "the Act") in a judgment reported in ***L.Royal Reddy and others vs. Government of Andhra Pradesh and others***[1].

As far as present case is concerned, the gist of the judgment of the Larger Bench is that if a bus is misused and is not run in accordance with the terms of the permit, higher rate of taxation cannot be levied, but other measures can be taken which are available under the Act.

Therefore, following the judgment, we allow this writ petition, quash the order but give liberty to the respondent to proceed against the petitioner in terms of the Act, if he is of the opinion that the conditions of permit have been violated. No order as to costs.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

17.06.2004

To
1. 2 CCs to G.P. for Transport, High Court Buildings,
   Hyderabad (OUT)
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[1] 2004(2) ALD 225 (LB)